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C O N F I D E N T I A L SECTION 01 OF 04 TEGUCIGALPA 000532

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STATE FOR WHA DAS FISK, WHA/CEN, AND WHA/EPSC
STATE FOR INL/RM, EB, AND CA
STATE PASS AID FOR LAC/CEN

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SUBJECT: ANTI-CORRUPTION IN HONDURAS--IS RICARDO MADURO
WILLING TO FOLLOW THROUGH WITH MORE THAN JUST RHETORIC?

Classified By: Ambassador Larry Palmer, Reasons 1.5(b) and (d)

11. (C) SUMMARY: As President Ricardo Maduro enters the second year of his single four-year term in office, the looming question in his professed effort to transform Honduras, economy, judicial system and political environment is whether or not he is prepared to seek concrete results in his battle against the country's endemic corruption. While the President's will appears strong and the Supreme Court has taken some important initial steps to clean up corruption in the courts, it remains to be seen if Maduro and his government, including the Court and the Congress, are prepared to press for action against major economic and political figures involved in corrupt practices. Cardinal Oscar Rodriguez, the Chairman of the National Anti-Corruption Commission, gave a strong, but qualified, endorsement of President Maduro's efforts thus far. But the newly formed anti-corruption entity, the Tribunal Superior de Cuentas (TSC), is off to a slow start and lacks the necessary prosecutorial zeal needed in an effective anti-corruption entity. WHA DAS Dan Fisk directly explored this question during his February 5-8 visit in meetings with President Maduro, the President of the Supreme Court, the Ministers of Foreign Relations and Public Security, Cardinal Rodriguez, and the TSC. END SUMMARY.

President Maduro Renews His Pledge to Fight Corruption

12. (C) In a meeting with Western Hemisphere Affairs (WHA) Deputy Assistant Secretary (DAS) Dan Fisk originally scheduled for one hour but extended to two hours, President Maduro spent much of the first hour outlining his government's efforts to combat corruption. He highlighted the following achievements in his anti-corruption campaign: the selection of an independent Supreme Court; creation of a transparency commission for the energy contract solicitation; establishment of a task force to capture white collar criminals, such as the fugitive bankers involved in fraudulent banking practices; the first ever removal of congressional immunity from a deputy (in a rape case); and adoption of the national budget by Congress in an open and transparent process. DAS Fisk told Maduro that the U.S. sees forward progress being made and that the President had a good agenda. However, he reiterated the importance of holding people and institutions accountable. Fisk said that for all he has seen and hears from other sectors of Honduran civil society, many average Hondurans still did not feel that there was real change taking place and that Maduro needed more concrete results against individuals involved in corrupt activities.

13. (C) Maduro responded that his government is taking a clear direction against corruption that should be clear to all. He said that he was acting against vested interests, even though they wanted to be able to manipulate the system. He also offered that he was pushing for the review of pending corruption cases and for establishing a higher level of transparency in these prosecutions. He cited as another example his effort to decentralize authority for government programs to the municipalities and the people who are most responsible for delivering services so that the public can hold them more directly accountable for their actions. He called attention to the poor performance of the Attorney General (AG) in prosecuting corruption cases. He explained that the AG is an independent appointee from the Liberal Party with a seven-year term of office, which does not expire until next year. Maduro said that the AG was not in sync with the rest of his government team.

14. (C) DAS Fisk also raised with the President his discussion with the President of the Supreme Court about Congress' effort to pass an amendment on constitutional interpretation. Maduro said he was well aware of the effort in Congress and flagged another effort there to adopt a new constitutional method for the removal of constitutionally-designated officers, such as members of the Supreme Court, the AG, the TSC, and the Human Rights Commissioner. Maduro expressed

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concern that such power would allow Congress to remove independent justices who did not follow the political parties' interests. He added that this proposed change would also undermine the court's effort on corruption and judicial reform.

Supreme Court Is Bright Spot on Anti-Corruption Horizon

15. (SBU) Supreme Court President Vilma Morales underscored to WHA DAS Fisk her firm commitment to improving the administration of justice in Honduras and her willingness to establish the Supreme Court as a co-equal branch of power with the Executive and Congress during her term. She said that the new nominating process put in place to select the current court and the seven-year term had been the most important judicial reform measure enacted and had set the stage for her efforts to further judicial reform by granting this court far more political independence than any court that had proceeded it. She acknowledged that judicial reform was a process and that these changes would take time to consolidate. However, Morales said it would only be through a strengthened and independent judiciary that Honduras would be able to begin attacking corruption. She told Fisk that she was removing corrupt judges and improving the selection process for new judges.

16. (SBU) However, Morales warned Fisk that powerful political interests remained opposed to the Court's efforts. She explained that the Congress was attempting to amend the Honduran constitution to give itself the power to interpret the constitutionality of its laws. She said the Court was preparing a legal decision in a test case over the constitutionality of the proposed amendment. Interestingly, the Attorney General had filed a brief supporting the Congress' position. Morales told Fisk she thought the Court would prevail but that it would be difficult and complicate the Court's relationship with the Congress.

17. (SBU) DAS Fisk encouraged her to continue her efforts to attack judicial corruption. Morales said she is working to strengthen the courts and thanked Fisk for U.S. and other international assistance. She highlighted assistance for judicial training for judges and the effort to improve the performance of public defenders, a critical need in Honduras where the cost of an effective legal defense far exceeds what the great majority of the population can afford.

Cardinal Endorses Maduro Efforts but Notes Shortcomings

18. (C) DAS Fisk thanked Cardinal Oscar Rodriguez for his leadership of anti-corruption efforts in Honduras and asked him for his assessment of the problem. The Cardinal said that Maduro's statements in early January against the fugitive bankers were a significant step. He added that it was a good sign that Maduro is committed to fighting back against the corruption that had created the bank failures. The Cardinal noted that Honduras was still struggling to improve its democracy and that corruption was a critical area. Ambassador asked how the U.S. could help ensure follow up on the bankers' cases. The Cardinal recognized that there were leading Nationalist Party figures in the bank failures who were not being pursued, and added that the legal system needed to go after them. He too laid blame on the Attorney General, stating that the AG has not done much in any of these cases.

19. (C) DAS Fisk replied that the Supreme Court was an optimistic point but that it appeared that the political and economic structures in the country were still resisting its independence. He told the Cardinal that a broader societal effort against corruption was needed. The Cardinal agreed that the Supreme Court was an important start. However, he claimed that his main concern now was the Congress. He said there needed to be an effort to reform the Congress: there was a "dark side" there that defends only its own interests. He relayed an anecdote of the direct involvement of a prominent Liberal Party deputy in extorting a USD 3 million commission for his son's law firm from a major health care development project.

10. (C) In response to a question about the goals of the National Anti-Corruption Commission he chairs, the Cardinal explained that he wants to get the Commission more involved in social auditing. He also shared that his life had been threatened for his work on corruption. Ambassador offered the full support of the U.S. for the Cardinal's efforts. The Cardinal said that U.S. visa revocations were an important tool and had an important impact on people. The Ambassador responded that the Embassy would continue canceling visas. He also said the Embassy was prepared to pursue people who were involved in intimidation as well.

Stressing Anti-Corruption to Foreign/Security Ministers

11. (C) DAS Fisk also stressed the importance of anti-corruption activities to Minister of Foreign Relations Guillermo Perez-Cadalso Arias and Minister of Public Security Oscar Alvarez. He told them it was essential that the GOH step up its campaign against corruption and produce some tangible results. FM Perez-Cadalso, a justice on the previous Supreme Court, noted that the current court was not tainted by a politicized selection process as previous courts had been and assured Fisk the Maduro government would push the Court for success in this area. Ambassador added that the support of the Maduro administration was critical. He said that it takes courage to move the judicial system forward. DAS Fisk and Ambassador gave assurances of complete U.S. support for these efforts. FM Perez-Cadalso also focused on the need to view the judicial system as a whole. He said that judges cannot do it alone; prosecutors, police and the penal system were also critical parts. He admitted that coordination among these entities did not work as well as it should. DAS Fisk urged the GOH to work with the U.S. on anti-corruption and called attention to Millennium Challenge Account (MCA) criteria, which would weigh government's performance in this area. He said fighting corruption was fundamental to U.S. policy objectives in Honduras.

12. (C) In his meeting with Minister of Public Security Oscar Alvarez, Fisk urged Alvarez to take action against corrupt police, to send a strong signal about impunity by arresting fugitive policeman Juan Carlos "Tiger" Bonilla, and to act carefully against whistle-blowers, such as ex-Chief of Police Internal Affairs Maria Luisa Borjas. He also encouraged Alvarez to address the problem of extra-judicial killings of youth and trafficking in persons. Alvarez pledged his full cooperation in the war on corruption and to improve the capabilities of the internal affairs unit. He acknowledged that the police force was a weak institution and that current law severely hamstrung his efforts to remove corrupt and under-performing officers. He assured Fisk that the GOH was investigating extra-judicial killings and that the police were becoming more involved in law enforcement operations against alien smugglers and traffickers of people.

New Anti-corruption Entity Off to a Slow Start

13. (SBU) The meeting with the new three-member Tribunal Superior de Cuentas (TSC - Superior Accounting Tribunal) proved disappointing. DAS Fisk probed the TSC members for their views on how the TSC can operate more effectively against corruption, after acknowledging the difficult job they face starting up a newly created institution. He pointed out that the TSC would be on the front line of the effort against corruption and urged them to more effectively align resources to anti-corruption priorities. Unfortunately, he found the panel had neither a broad anti-corruption vision nor a strong desire to lead a head-on charge against government corruption. TSC President Renan Sagustume explained that the group has been in office less than a month and is in the process of consolidating the operations of three previously independent government institutions. His technical presentation focused almost entirely on the bureaucratic challenges facing the TSC -- hiring new staff, deciding on who to keep from the old staff, locating the existing files (many of which are lost) and defining the necessary ethics standards that they will apply in their work. He asked for U.S. assistance in developing mechanisms for sharing information about bank accounts in the U.S., for technical training for the staff in investigating corrupt practices, and for help in developing a better auditing function in the organization.

14. (SBU) Fellow TSC commissioner, Fernando Montes, was uninspiring in his explanation of the process needed to review government officials' financial disclosure forms, unconsciously revealing more of a preoccupation with the electronic storage of the forms rather than any interest in actually reviewing the forms for accuracy or making them publicly available. He stated without any hesitation that he was more interested in securing the forms' information from potential kidnappers or other criminal elements than in using them as a transparency tool to hold public officials accountable for their actions in office. Montes did point out that the TSC will establish a "follow through" unit to follow cases referred to the Attorney General's office and Solicitor General's office for prosecution. He noted that they had already referred 25 pre-existing cases but that the AG had only taken action on one case thus far.

15. (SBU) Only former Liberal Party Congressman Ricardo Galo Marengo, who resigned from Congress to take this post, made

any mention of leading the fight against corruption in the country, assuring DAS Fisk that the TSC would fully apply Honduran law and act firmly against corruption so that Honduras has credibility in its effort against this problem. Notwithstanding this professed commitment, his tone and language echoed the hollow promises to stop corruption which one hears all too often in the National Congress.

16. (C) COMMENT: Media coverage of DAS Fisk's visit squarely placed the corruption issue back on the public agenda and made it obvious to all that this issue remains a top policy priority for the U.S. President Maduro was taken aback by Fisk's comments that the Honduran people want to see more concrete results. Obviously he feels that he has made more progress on this issue than any previous government and was surprised that many are questioning his results. Maduro did present a persuasive case that anti-corruption remains a top priority for his administration; but privately we have heard that he is already backing away from aggressively pursuing bankers involved in the bank failures. He has couched his reticence in terms of not wanting to undermine the stability of and public confidence in the financial sector. The lack of any prosecutorial zeal at the TSC was also disappointing. However, the unmistakable message delivered by DAS Fisk's visit is that the U.S. wants to see some big fish caught in the GOH's anti-corruption net, even if it does have major holes in it.

Palmer